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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,665	12/18/2000	William B. Douglas	Essent.01USU1	7055

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COCHRAN FREUND & YOUNG LLC  
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FORT COLLINS, CO 80525

EXAMINER

RHODE JR, ROBERT E

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/741,665

Applicant(s)

DOUGLAS, WILLIAM B.

Examiner

Rob Rhode

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19 - 21, 24, 26, 27, 34 and 36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19 - 21, 24, 26, 27, 34 and 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6-01-05 has been entered.

### ***Response to Amendment***

Applicant amendment of 6-1-05 amended claims 19 – 21, 24, 26, 27, 34 and 36 and canceled claims 1 – 18 as well as withdrew claims 22 – 23, 25, 28 – 33 and 35. In addition, Applicant traversed rejections of Claims 19 – 21, 24, 26, 27, 34 and 36.

Currently, claims 19 – 21, 24, 26, 27, 34 and 36 are pending.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 19 recites the limitation "supplier" in this claim. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 19 – 21, 24, 26, 27, 34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over “Online Auction opens up”, Carolyn Whelan; Electronic News; New York; Apr. 27, 1998 and “FairMarket Goes Live: Revolutionary Online Site Delivers Daily Business-to-Business Auctions”; Bus/Tech Editors; Business Wire; New York; Apr. 20, 1998 (hereafter collectively referred to as “FairMarket”) in view of Doyle (US 5,694,551).**

Regarding claim 19 (Currently Amended), FairMarket teaches a method of selling goods through an electronic blind supply open commerce computer business system comprising:

receiving product information for said goods that is uploaded by distributors who are not manufacturers of said goods over a network to said computer business system which includes the name of the manufacture said goods, over a network to said computer business system which includes the name of the manufacture of said goods, product identification information and a price specified by said distributors for said goods (Page 1);

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automatically marking up said price specified by said distributors in said computer system to a sales price (Page 1);

automatically generating entries in said computer business system that include said sales price, said product identification information, and said name of said manufacturer of said goods (Page 1 and 3);

providing a listing of said goods from said entries on said computer business system without revealing said name of said distributors so that said distributors remain anonymous to purchasers at all times while said goods are listed on said computer business system and after said goods are sold, so that said distributors may sell said goods on said electronic blind supply open commerce computer business system without affecting a pricing structure established by said distributors for said goods (Pages 1 and 3);

making said listings of said goods available to said purchasers on said computer business system through a network connection to allow said purchasers to purchase said goods at said sales price over said network ((Page 1);

automatically accepting a sales order on said computer business system from a qualified purchaser that includes a purchase price that satisfies said sales price (Pages 1, 3 and 4);

automatically generating a purchase order on said computer business system in response to said sales order that includes said product information and said price specified by said supplier for said goods (Page 1 and 3);

completing the sale of said goods using said electronic blind supply open

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commerce business computer system (Page 1).

Please note that FairMarket does not specifically disclose a method selling goods that includes without affecting a pricing structure established by said distributors for said goods. However, FairMarket discloses manufactures channel partners such as distributor who have excess and older equipment in inventory. In this regard, it would have been obvious to one of ordinary skill that manufacture as well as the distributors are sensitive to current channel pricing structure and do not want to disrupt. Thereby, the method of FairMarket clearly provides their channel partners anonymity in order to sell the named manufactures goods in order to not cause channel-pricing conflict.

While it would be implicit in FairMarket that a purchase order/payment method is sent to the seller, FairMarket does not specifically disclose and teach a method of the electronically transmitting said purchase order to said distributor from said computer system.

On the other hand in the same area of networked selling and purchasing commence business system, Doyle teaches a method of electronically transmitting said purchase order to said distributor from said computer system (Abstract, Col 2, lines 42 – 49 and Col 7, lines 20 – 23).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the method of FairMarket with the method of Doyle to have enabled a

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method as recited in claim 19. FairMarket an online B2B method of selling and purchasing system, discloses receiving product information, marking up, generating entries, listing of goods available without revealing the names of distributors, purchasing and completing the sale (Pages 1 – 4). In turn, Doyle discloses a method of the electronically transmitting said purchase order to said distributor from said computer system (Abstract and Col 2, lines 42 – 47). Therefore, one of ordinary skill would have been motivated to extend the method of FairMarket with a method for the electronically transmitting said purchase order to said distributor from said computer system. In that manner, the seller will be assured of receiving payment at the conclusion of sale.

Regarding claim 20 (Currently Amended), FairMarket teaches a method wherein said process of completing the sale of said goods comprises the process of paying said distributor after said purchaser accepts said goods (Page 4).

Regarding claim 21 (Previously Amended), Doyle teaches method wherein said process of completing the sale of said goods comprises the process of accepting a shipping tracking number, shipping method, and ship date (Col 2, lines 16 – 21).

Regarding claim 24, Doyle teaches a method wherein said process of completing the sale of said goods comprises the process of accepting an electronic funds transfer (Col 2, line 64).

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Regarding claim 26, Doyle teaches a method wherein said process of generating a listing in said system comprises the process of generating a listing that includes product information comprising a part number (Abstract and Col 3, lines 15 – 17).

Regarding claim 27, Doyle teaches a method wherein said product information further comprises a product description, product specifications, and product category information (Col 3, lines 15 – 17 and Figure 13).

Regarding claim 34, Doyle teaches a method wherein said purchasers access said system via a corporate procurement system of said purchaser (Abstract).

Regarding claim 36, Doyle teaches a method, wherein said process of electronically transmitting said purchase orders comprises the process of e-mailing said purchase orders (Col 1, lines 33 – 34). Please note that Doyle does not specifically disclose email. However, Doyle does disclose electronic transmission of the PO via fax. In that regard, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have extended the method of Doyle with email. Moreover, email, as method of electronic transmission was old and well known at the time of the applicant's invention. Thereby with email, the supplier can receive the PO more rapidly.

### ***Response to Arguments***

Applicant's arguments with respect to claims 19 – 21, 24, 26, 27, 34 and 36 have been considered but are moot in view of the new ground(s) of rejection.



***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is Sharp (US 6,263,317 B1), which discloses channel conflict.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **571.272.7159**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

**Alexandria, Va. 22313-1450**

or faxed to:

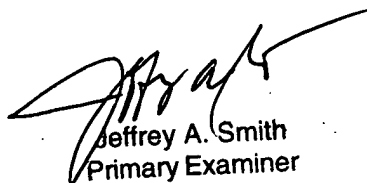
**571.273.8300**

[Official communications; including  
After Final communications labeled  
"Box AF"]

[Informal/Draft communications, labeled

"PROPOSED" or "DRAFT"]

RER

  
Jeffrey A. Smith  
Primary Examiner